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June 5, 2025

VIA ECF

The Honorable John G. Koeltl
United States District Court Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street, Room 14A
New York, New York 10007-1312

Re: *Kaiser Aluminum Warrick, LLC v. US Magnesium, LLC*, Case No. 1:22-cv-03105-JGK-KHP

Dear Judge Koeltl:

We represent Plaintiff Kaiser Aluminum Warrick, LLC ("Kaiser") in the above-referenced action. We write pursuant to this Court's standing order 19-mc-00583 and Individual Practice Rule VII to identify the exhibits that Kaiser requests to be filed under seal in connection with Plaintiff's Motion *In Limine* to Preclude Evidence Related to its Operations and Force Majeure Declaration (the "Motion"), including certain exhibits attached to the Declaration of Andrew B. Kratenstein, dated June 5, 2025 (the "Kratenstein Declaration"). Kaiser has identified each document to be filed under seal on Exhibit A of this letter motion, along with the bases for such designations.

Kaiser respectfully submits that good cause exists to seal these documents. Each of the exhibits identified for sealing was designated either "Confidential" or "Attorneys' Eyes Only" pursuant to the Protective Order (ECF No. 24), and consist of "commercially sensitive and confidential business information" and "confidential terms of competitively sensitive contracts". *fuboTV Inc. v. Walt Disney Co.*, No. 1:24-CV-01363-MMG, 2025 WL 19322, at *1 (S.D.N.Y. Jan. 2, 2025). This Court previously granted the parties' applications to seal similar information in connection with Kaiser's earlier summary judgment filings. (ECF Nos. 158-59 and 177.)

Confidential documents pertaining to sensitive business operations that, if made public, would commercially or competitively disadvantage the disclosing party, are among those this Court has consistently recognized as justifying protection from the public view when used in litigation. *See Matter of Upper Brook Companies*, No. 22-MC-97 (PKC), 2023 WL 172003, at *6 (S.D.N.Y. Jan. 12, 2023) ("A presumption of access may be outweighed by a party's interest in 'protecting confidential business information' from disclosure that would subject it to 'financial harm' or a 'significant competitive advantage.'") (quoting *Standard Inv. Chartered, Inc. v. Fin. Indus. Regul. Auth., Ind.*, 347 F. App'x 615, 617 (2d Cir. 2009)); *see also Standard v. Fin. Indus. Regulatory Auth., Ind.*, 347 F. App'x 615, 617

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*Application granted,
although the parties are reminded
that the trial will be held in open
court and it requires very compelling
reasons that cannot be
satisfied by alternative means
before the courtroom will be
closed.*

*so ordered.
JGK/KRP/USP
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(2d Cir. 2009) (affirming district court's sealing on grounds that the party's "interest in protecting confidential business information outweighs the qualified First Amendment presumption of public access"); *W.J. Deutsch & Sons Ltd. v. Diego Zamora, S.A.*, No. 1:21-CV-11003-LTS, 2022 WL 890184, at *3 (S.D.N.Y. Mar. 25, 2022) (granting a sealing request where "disclosure of this confidential business information would subject [movant] to a competitive disadvantage").

In short, Kaiser's proposed sealing is narrowly tailored to protect Kaiser's non-public operational information and contractual terms that, if made public, could cause severe harm to Kaiser. Accordingly, Kaiser respectfully requests that the Court permit Kaiser to file the exhibits to the Kratenstein Declaration (listed In Exhibit A hereto) under seal.

We thank the Court for its time and consideration.

Respectfully submitted,

/s/ Andrew B. Kratenstein
Andrew B. Kratenstein

cc: Counsel of Record (via ECF)

Kaiser Aluminum Warrick, LLC v. US Magnesium LLC
Case No. 1:22-cv-3105-JGK-KHP
Exhibits to the Kratenstein Declaration to be Filed Under Seal

Document Title	Exhibit Number	Designation	Basis for Sealing
Letter from Ron Thayer to Nathaniel Kane regarding Force Majeure Notice for Magnesium Products	Kratenstein Decl. Ex. A	Confidential	US Magnesium operational information
Transition Services Agreement between Alcoa USA Corp. and Kaiser Aluminum Corporation dated March 21, 2022	Kratenstein Decl. Ex. D	Attorneys' Eyes Only	Kaiser contractual terms, pricing information, and operational information
Email from Evan Quinley to Keith Harvey and others regarding Warrick Weekly Notes – Week Starting July 26, 2021	Kratenstein Decl. Ex. E	Confidential	Kaiser operational information
Email from Evan Quinley to Keith Harvey and others, regarding Warrick Weekly Notes – Week Starting August 2, 2021	Kratenstein Decl. Ex. F	Attorneys' Eyes Only	Kaiser operational information
Email from Nick Badgett to Dell Miller and others, regarding 2021 Received Scrap Spreads by Week	Kratenstein Decl. Ex. G	Confidential	Kaiser operational information
Email from Keith Harvey to Melinda Ellsworth, regarding Q3 Question List	Kratenstein Decl. Ex. H	Confidential	Kaiser operational information
Warrick Weekly Notes – Week Starting May 30, 2022	Kratenstein Decl. Ex. I	Attorneys' Eyes Only	Kaiser operational information
Letter from Evan Quinley to Delwyn Forrest regarding the Metal Supply Agreement dated June 6, 2022	Kratenstein Decl. Ex. J	Confidential	Kaiser contractual terms, and operational information
Warrick Weekly Notes – Week Starting June 6, 2022	Kratenstein Decl. Ex. K	Attorneys' Eyes Only	Kaiser operational information
Warrick Weekly Notes – Week Starting June 27, 2022	Kratenstein Decl. Ex. L	Attorneys' Eyes Only	Kaiser operational information
Email from Blaine Tiffany to Rick Siegel, regarding Updates	Kratenstein Decl. Ex. N	Confidential	Kaiser operational information

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Exhibits to the Kratenstein Declaration to be Filed Under Seal

Document Title	Exhibit Number	Designation	Basis for Sealing
Email chain between John Donnan and others, regarding Off Specification Molten -- Weekend of July 1 through July 4	Kratenstein Decl. Ex. O	Confidential	Kaiser operational information
Letter from John Donnan to Alcoa Corporation and Warrick Newco LLC, regarding Notice of Breach of Primary Aluminum Purchase Agreement dated March 31, 2021	Kratenstein Decl. Ex. P	Confidential	Kaiser contractual terms, pricing, and operational information
Letter from Rick Siegel to Rachel Guthrie at ABInBev regarding Notice of Force Majeure	Kratenstein Decl. Ex. Q	Confidential	Kaiser operational information
Letter from Rick Siegel to Charles Rogers at PepsiCo Inc. regarding Notice of Force Majeure	Kratenstein Decl. Ex. R	Confidential	Kaiser operational information
Letter from Rick Siegel to Mike Arena at Silgan Containers regarding Notice of Force Majeure	Kratenstein Decl. Ex. S	Confidential	Kaiser operational information
Letter from Rick Siegel to Mike Arena at Silgan Closures regarding Notice of Force Majeure	Kratenstein Decl. Ex. T	Confidential	Kaiser operational information
Warrick Weekly Notes -- Week Starting July 11, 2022	Kratenstein Decl. Ex. U	Attorneys' Eyes Only	Kaiser operational information
Warrick Weekly Notes -- Week Starting July 18, 2022	Kratenstein Decl. Ex. V	Attorneys' Eyes Only	Kaiser operational information
Warrick Weekly Notes -- Week Starting July 25, 2022	Kratenstein Decl. Ex. W	Attorneys' Eyes Only	Kaiser operational information
Warrick Weekly Notes -- Week Starting August 8, 2022	Kratenstein Decl. Ex. X	Attorneys' Eyes Only	Kaiser operational information